

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SPC-03 SS-15

USIA-15 ACDA-19 IO-15 AID-20 OMB-01 DRC-01 /148 W

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P R 052100Z OCT 73

FM AMEMBASSY MANAGUA

TO SECSTATE WASHDC PRIORITY 2612

INFO AMEMBASSY GUATEMALA

AMEMBASSY SAN JOSE

AMEMBASSY SAN SALVADOR

AMEMBASSY TEGUCIGALPA

USCINCSO

C O N F I D E N T I A L SECTION 1 OF 2 MANAGUA 4012

USCINCSO FOR POLAD

E. O. 11652: GDS

TAGS: PINT, PINS, NU

SUBJECT: GON REVISES LAWS DEALING WITH "INJURY AND CALUMNY"

REF: MANAGUA 3922

1. SUMMARY: ON MARCH 4 THE GON RAMMED A MODIFIED
VERSION OF ITS PROPOSED REVISIONS OF THE LAWS DEALING
WITH INJURY AND CALUMNY (MANAGUA 3922), WHICH ARE OPPOSED
AS MEASURES TO MUZZLE THE PRESS, THROUGH A TUMULTOUS
SESSION OF THE CONSTITUENT ASSEMBLY. FEATURED EVENTS OF
THE WILD LEGISLATIVE DAY WERE AN UNPRECEDENTED, IN
RECENT MEMORY, INTERVENTION OF ARMED NATIONAL GUARD TROOPS
TO EVICT A REPORTER; A PROTEST WALKOUT OF ALL MEDIA
REPRESENTATIVES AND MEMBERS OF THE OPPOSITION WITH THE
PCN-P AND PCN-A AGREEING FOR THE FIRST TIME SINCE THE
SPLIT EARLIER THIS YEAR; A PRESENTATION OF A SUPREME COURT
OPINION WHICH WAS SIGNED ONLY BY THE FOUR JUDGES SUPPORTING
THE LAW AND DID NOT INCLUDE THE OPPOSING OPINIONS OF THE
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COURTS LIBERAL PARTY PRESIDENT, ITS CONSERVATIVE VICE

PRESIDENT AND THE OTHER PCN MEMBER; A SECOND AND FINAL WALKOUT BY ALL OPPOSITION MEMBERS IN AN ATTEMPT TO DEPRIVE THE ASSEMBLY OF A QUORUM; AND EVENTUAL LATE NIGHT PASSAGE OF THE PROPOSALS WITH A CHALLENGED QUORUM PRESENT AND VOTING ITS APPROVAL. THIS LEGISLATIVE HISTORY WHICH HAS SERVED TO UNITE HITHERTO DIVIDED OPPONENTS OF THE MEASURE HARDLY AUGERS WELL FOR ITS IMPLEMENTATION. THE MEDIA IS STAGING A SUCCESSFUL 24 HOUR "NEWS STRIKE" AND HAS PUBLICLY DECLARED THAT IT WILL NOT BACK AWAY FROM A CONFRONTATION. END SUMMARY.

2. TRUE TO RUMORS, THE CONSTITUENT ASSEMBLY WAS SUMMONED MARCH 4 TO A FORMALLY CONSIDER THE GON'S PROPOSALS FOR REVISION OF THE LAWS DEALING WITH INJURY AND CALUMNY WHICH THE ASSEMBLY HAD REFERRED TO THE SUPREME COURT FOR AN OPINION SEPTEMBER 26 (MANAGUA 3922). DURING THE WEEK FOLLOWING INITIAL PRESENTATION, ALL INFORMATION MEDIA EXCEPT THE SOMOZA OWNED NOVEDADES AND THE FEW LIBERAL OWNED RADIO STATIONS, HAD WAGED AN ALL OUT CAMPAIGN OPPOSING THEM AS A MORTAL THREAT TO FREEDOM OF THE PRESS AND INFORMATION. ALL OPPOSITION POLITICAL PARTIES, THE ARCHBISHOP AND SOME LABOR UNIONS ALSO MADE STATEMENTS CONDEMNING THE REVISIONS AND THE PRIVATE SECTOR SUPERIOR COUNCIL (COSIP) WAS ACTIVELY CONSIDERING RECOMMENDING A LESS OBJECTIONABLE SUBSTITUTE PROPOSAL.

3. THOUGH THE SESSION WAS TO BEGIN AT 1100, BY 1330 THE REQUIRED 51 OUT OF 100 QUORUM HAD NOT BEEN REACHED BECAUSE SUFFICIENT CONSERVATIVE MEMBERS INTENTIONALLY LEFT THE CHAMBER TO PREVENT IT. AT THIS POINT A SERIOUS INCIDENT OCCURRED. ASSEMBLY PRESIDENT CORNELIO HUECK ORDERED A RADIO REPORTER, WHO LAST WEEK ASKED HIM AN EMBARRASSING QUESTION ABOUT HIS PROFITS FROM LAND SALES TO THE GOVERNMENT, TO LEAVE THE ASSEMBLY, AND HE REFUSED TO COMPLY. HUECK THEN ORDERED A NATIONAL GUARD SOLDIER TO EVICT THE MAN BUT JOSE SOMOZA ABREGO, PLN DEPUTY AND SON OF GENERAL JOSE R. SOMOZA, COUNTERED THE ORDER. ENRAGED, HUECK SUMMONED SEVERAL GN OFFICERS, A CONTINGENT OF 25 TROOPS WAS STATIONED OUTSIDE, AND HIMSELF TRIED TO BODILY PUSH THE MAN OUT. JOSE SOMOZA AGAIN INTERVENED TO HALT THE GN PARTICIPATION BUT HUECK
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SHOUTED HIM AWAY AND THE REPORTER WAS ESCORTED OUT. SOMOZA THEN LEFT THE CHAMBER FOR TWO HOURS, REPORTEDLY TO CONSULT WITH HIS FATHER, HALF-BROTHER OF GENERAL ANASTASIO SOMOZA.

4. EVICTION OF THE REPORTER PROVOKED A NOISY WALKOUT OF ALL 60 MJJIA REPRESENTATIVES PRES NTKX THEY WERE JOINED BY THE 32 OWPOSCVACC DEPUTIEU (7?(PC-P AND PCN-A) DEMONSTRATING

A REMARKABLE CONCERTED ACTION BY HE AGUERO AND PAGUAGA
FACTIONS WHICH HAVE BEEN AT EACH OTHER'S THROATS SINCE
THE PARTY SPLIT EARLIER THIS YEAR.

5. BY 1500 HOURS HUECK HAD PIECED TOGETHER A QUORUM OF
PLN MEMBERS, INCORPORATING MANY ALTERNATES, AND THE
CONSERVATIVES AND MOST REPORTERS RETURNED TO THE CHAMBER.
THE PLN LEADERSHIP THEN READ AN OPINON SIGNED BY FOUR
SUPREME COURT MEMBERS WHICH APPROVED THE LAW AND RECOMMENDED
CERTAIN IMPORTANT CHANGES. AMONG THESE WAS A 75 PERCENT
REDUCTION OF ALL FINES (LOWERING THE MAXIMUM POSSIBLE
FROM US\$43 THOUSAND TO \$10,500), ELIMINATION OF WORDING
WHICH DID NOT PERMIT CRITICISMS OF THE GOVERNMENT IF IT
DAMAGED THE HONOR, DIGNITY OR REPUTATION OF AN OFFICIAL
(PARA 2D REFTTEL), CLARIFICATION THAT ONLY FOREIGN NEWS
REPRESENTATIVES RESIDENT IN NICARAGUA WERE SUBJECT TO THE
LAW (PARA 2G REFTTEL) AND SEVERAL OTHER MINOR BUT WORTHY
IMPROVEMENTS. THE RECOMMENDATIONS WERE IDENTICAL TO
THOSE WHICH MINISTER OF GOVERNMENT MARIN HAD EARLIER TOLD
THE EMBASSY THE GON INTENDED TO MAKE. HOWEVER, THE COURT'S
STATEMENT WAS VIGOROUSLY CHALLENGED BECAUSE IT DID NOT
INCLUDE DISSENTING OPINIONS. OPPOSING THE
LEGISLATION AND RECOMMENDING FAR MORE EXTENSIVE MODIFICATIONS ARE
THE COURT'S PLN PRESIDENT, ITS PCN VICE PRESIDENT AND THE OTHER
PCN MEMBER, WHO IS ALSO DEAN OF THE CENTRAL AMERICAN
UNIVERSITY LAW SCHOOL.

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ACTION ARA-20

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SPC-03 SS-15

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P R 052100Z OCT 73
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C O N F I D E N T I A L SECTION 2 OF 2 MANAGUA 4012

C O R R E C T E D C O P Y (TEXT)

6. THE MEASURE WAS THEN QUICKLY REFERRED TO THE ASSEMBLY'S GOVERNMENT COMMITTEE WHICH WITHIN AN HOUR RETURNED WITH A STATEMENT FROM ITS THREE PLN MEMBERS SUPPORTING THE LAW AND A DECLARATION OF ITS TWO PCN MEMBERS OPPOSING IT. THE LEADERSHIP NEXT AS IS CUSTOMARY SUBMITTED THE LEGISLATION TO A GENERAL VOTE AS TO WHETHER IT SHOULD BE TABLED OR FORMALLY CONSIDERED ITEM BY ITEM. WHILE NO ROLL CALL WAS TAKEN, THE CHAIR DECLARED THE VOTE TO BE 50 IN FAVOR AND 25 AGAINST. THE PCN MEMBERS, MAINTAINING THAT THE VOTE WAS ONLY 47 IN FAVOR ON THE GROUNDS THAT 3 OF THE PLN ALTERNATES WERE NOT LEGALLY INCORPORATED, PROMPTLY LEFT THE CHAMBER TO BREAK THE QUORUM. WHILE THE OPPOSITION INSIST THAT HUECK NEVER MUSTERED A LEGITIMATE QUORUM, THE MEASURE INCORPORATING THE COURT'S RECOMMENDATION WAS NEVERTHELESS FINALLY ENACTED WITH THE PURPORTED APPROVAL OF 52 MEMBERS. PROMPT APPROVAL OF THE NATIONAL GOVERNING COUNCIL IS EXPECTED, THOUGH PCN MEMBER PAGUAGA WILL PROBABLY VOTE NO SINCE HE HAS ALREADY ISSUED A DECLARATION OPPOSING THE AMENDMENTS.

7. IMMEDIATE RESPONSE OF THE MEDIA, EXCEPT FOR PLN OWNED
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ENTITIES, IS A SUCCESSFUL 24 HOUR "NEWS STRIKE" RADIO STATIONS ARE PLAYING FUNERAL AND MARTIAL MUSIC DURING NORMAL NEWS TIME, OCCASSIONALLY INTERRUPTED BY THE NAME OF THE NEWS PROGRAM. MEDIA OPPONENTS HAVE ALSO PLEDGED TO NEVER AGAIN MENTION THE NAMES OR PUBLISH THE PICTURES OF THOSE WHO SUPPORTED THE AMENDMENTS AND MEMBERS OF THEIR FAMILIES EXCEPT IN CONNECTION WITH AN OBJECTIONABLE ACT. OPPOSITION LA PRENSA AND INDEPENDENT EL CENTROAMERICANO WILL IN PROTEST NOT BE PUBLISHED OCTOBER 5. LA PRENSA PUBLISHER PEDRO JOAQUIN CHAMORRO HAS VOWED TO CONTINUE FIGHTING AND TO CLOSE HIS NEWSPAPER IF FORCED TO DO SO.

8. COMMENT: EMBASSY SEES THE FOLLOWING AS SIGNIFICANT
FROM THE ABOVE DESCRIBED EVENTS:

A. POLITICIZATION OF THE NATIONAL GUARD. THE ACTIVE INVOLVEMENT OF THE GUARD IN THE AFFAIRS OF THE LEGISLATIVE BRANCH, PARTICULARLY ON BEHALF OF A CONTROVERSIAL PRESS LAW, APPEARS UNPRECEDENTED. THE UNSUCCESSFUL ATTEMPT OF GENERAL JOSE SOMOZA'S SON TO PREVENT THIS, ATTRACTS ATTENTION AND RAISES QUESTIONS ABOUT THE GUARDS RESENTMENT OF BEING USED FOR THIS POLITICAL PURPOSE.

B. RALLYING POINT FOR THE OPPOSITION. THE THREE MAIN DIVISIONS OF THE PCN FIND THEMSELVES UNITED ON A SINGLE ISSUE FOR THE FIRST TIME IN MANY MONTHS. THIS UNITY MAY WELL BE TRANSITORY BUT BOTH PAGUAGA AND AGUERO DEPUTIES ARE EXPRESSING HOPE THAT THEY CAN BUILD ON IT TO REUNITE THE PARTY. THE MEDIA IS ALSO UNITED AND THERE IS A POTENTIAL FOR INCLUDING OTHER ELEMENTS OF NICARAGUAN SOCIETY SUCH AS THE CHURCH AND THE PRIVATE SECTOR.

C. DENIGRATION OF THE SUPREME COURT: THE CAVALIER TREATMENT OF THE SUPRME COURT ESPECIALLY EXCLUDING FROM PARTICIPATION IN THIS IMPORTANT DECISION BOTH THE PRESIDENT AND VICE PRESIDENT OF THE COUNTRY'S HIGHEST JURIDICAL ENTITY DOES NOT AUGER WELL FOR CREATING PUBLIC CONFIDENCE IN THE COURTS WHICH WILL BE IMPLEMENTING THIS LEGISLATION. MANIPULATION OF THE COURT IS PARTICULARLY APPARENT SINCE THE DECISION DELIVERED BY THE FOUR
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JUDGES WHO WERE CONSULTED APPEARS TO HAVE BEEN WRITTEN BY THE MINISTRY OF GOVERNMENT WHICH INTRODUCED THE MEASURE IN THE FIRST PLACE.

D. CONFRONTATION WITH THE MEDIA: THE MEDIA LED BY THE ASSOCIATION OF NEWSMEN SEEM HEADED ON A COLLISION COURSE WITH THE GON OVER THE NEW LAW. IF THE MEDIA STICK TO THEIR GUNS AND THERE IS EVERY INDICATION THAT MOST WILL FROM THE STRONG REACTION SO FAR, THE GON WILL FIND ITSELF COMPELLED TO TAKE THEM TO COURT.
SHELTON

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